

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

SHAWN THOMAS MOORE,
Plaintiff,

v.

SUSEN ROSSINO, M.D.; BRIAN LUFFEY;
PRIMECARE MEDICAL INC.,

Defendants.

No. 2:14-cv-00870-DSC-MPK

CIVIL ACTION - LAW

Hon. David S. Cercone
Magistrate Judge Maureen P. Kelly

JURY TRIAL DEMANDED

MOTION FOR SUMMARY JUDGMENT

AND NOW comes Defendant SUSEN ROSSINO, M.D., by and through her attorneys, TERRY C. CAVANAUGH, ESQUIRE, BRETT C. SHEAR, ESQUIRE and MARSHALL DENNEHEY WARNER COLEMAN & GOGGIN, and files the following Motion for Summary Judgment (Defendant's Memorandum in Support of this Motion is incorporated as if set forth fully herein) stating as follows:

1. This action arises from a time period when Plaintiff was a pretrial detainee at the Lawrence County Jail.
2. Plaintiff has asserted a claim under Section 1983 for an alleged violation of the Eighth Amendment Prohibition against cruel and unusual punishment for the alleged failure to treat his pain complaints. Plaintiff does not have a negligence claim pending in this action.
3. As set forth more fully in Dr. Rossino's Brief, Plaintiff has failed to adduce facts supporting a claim under Section 1983 because Dr. Rossino undisputedly did treat Plaintiff on a regular basis and offered numerous recommendations and treatments in an attempt to not only discover the cause of his pain complaints, but also to find a way to relieve them.
4. Under these circumstances, the law is clear that summary judgment must be granted where Plaintiff's claim is solely based on his disagreement with Dr. Rossino's medical

judgment and the medical course she followed. Such disagreements cannot form the basis of a Section 1983 claim.

5. Accordingly, Dr. Rossino is entitled to judgment as a matter of law.

WHEREFORE, Defendant Susen Rossino, M.D. respectfully requests that this Honorable Court grant her Motion for Summary Judgment and dismiss Plaintiff's claims with prejudice.

Respectfully submitted,

**MARSHALL DENNEHEY
WARNER COLEMAN & GOGGIN**

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